

The Pacific Commercial Advertiser

U. S. WEATHER BUREAU, FEBRUARY 27.—Last 24 hours' rainfall, trace. Temperature, Max. 78; Min. 69. Weather, valley showers.

SUGAR—96 Degree Test Centrifugals, 3.39c; Per Ton, \$67.80. 88 Analysis Beets, 8s 3d; Per Ton, \$75.40.

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HONOLULU, HAWAII TERRITORY, WEDNESDAY, FEBRUARY 28, 1906.

PRICE FIVE CENTS.

NO COUNTY MONEY CAN BE GIVEN TO THE SCHOOLS

Douthitt Tells Board of Supervisors They Are Powerless.

The Board of Supervisors at a meeting last night, acting on an opinion rendered by County Attorney Douthitt, decided that they were unable to help the Board of Education in their present financial stress, on account of being unauthorized by the County Act to appropriate money for such a purpose. The next most important feature of the evening's proceedings was the cut in March estimates of \$10,415 from the March total, the road department being the chief sufferer with a deficit of about \$8000. This retrenchment was based upon figures furnished by Chairman Adams as to the financial condition of the county which inspired him to sound a note of warning as to future expenditures.

Road Overseer Peck of Koolaupeke was exonerated by Supervisor Paele in the matter of certain indirect charges preferred against him.

MEMBERS PRESENT.

Present were Chairman Adams, Supervisors Moore, Lucas, Cox, Archer, Paele, Auditor Bicknell, E. B. Bivens, Clerk Kalaokalani, Clerk Buffan, Stenographer Aea, John Hughes, Capt. Sam Johnson, W. Wolters, County Attorney Douthitt, F. G. Voyes, and representatives of the press.

The minutes of the last meeting were read and approved.

The following appropriations were made:

Fire department, \$3675.
Koolaupeke road district, \$801.50.
Fixed salaries, \$1670.
County clerk, \$235.
County attorney, \$535.
County auditor, \$120.
House numbering, \$200.
County engineer, \$225.
Keepers of parks, \$200.
Poundmaster, \$30.
Kapiolani park, \$360.75.
Road department, \$2056.35.
Garbage department, \$200.
Electric light department, \$930.
Police and fire claim system, \$148.10.
Hawaiian band, \$1512.50.
Police department, \$7587.50.
Waialua road district, \$880.50.
County treasurer's office clerk, \$120.
Koolaupeke road district, No. 2, \$41.75.

ARCHER AND TAXES.

Archer started the talk by stating that he had spoken to Sheriff Brown about employees of the department paying taxes and the sheriff had promised to assist in the matter.

Sam Johnson in response to an enquiry by the chair, said that road department employees were going to pay \$2.50 per week until their tax arrears had been wiped off.

PECK EXONERATED.

Paele reported that he had investigated the complaint that Road Overseer Peck had used road employees for his private work and put their names on the government payroll. The reports exonerated Peck. "It was all a mistake," said the rotund supervisor.

ELECTRIC LIGHTS.

Moore said that he had looked into requests from residents for electric lights. In regard to Manoa lights it could not be said definitely at present what would be done.

ROAD REPAIR FIGURES.

A statement from Road Supervisor Johnson was read of the most important work completed during the month of February, and a list of work under construction at the present time.

The amount appropriated for the road department for February was \$20,000, out of which about \$4000 was spent in filling, grading and oiling the Waikiki and Kaimuki roads, also erecting new bridge on the Waikiki road.

Johnson asked that the board pass a resolution allowing the road department to continue work on the Kaimuki and Waikiki roads, the amount expended to be drawn out of the special road tax fund.

UNION STREET HACK STAND.

The Union street hack stand squabble came up again, being introduced by a communication from Superintendent of Public Works Holloway, asking that the board take notice of the complaint of certain property owners who object to the present location of the stand.

Moore suggested that the stand be moved to the mauka side of Bishop park on Hotel street where it wouldn't interfere with traffic. He said the stand had been in existence for 12 years and that the hackmen had certain rights which ought to be respected.

A KNOCK-OUT BLOW.

W. Wilders didn't want the stand where it was at any price. He said it kept the value of property down, smelt badly, fostered affrays and wasn't such that ladies could pass by it.

A motion was adopted that the clerk write Superintendent Holloway recommending that the location of the stand be changed to that suggested by Moore.

THE SCHOOL FUND FAMINE.

The school janitors vs. teachers matter was next given consideration. Superintendent of Public Instruction Babbitt's communication on the sub-

"There is nothing in the County Act which either expressly or by implication grants the power to the Board of Supervisors to make appropriations for schools." —Extract from the opinion of the County Attorney, given to the Board of Supervisors.

ject to the Commissioners of Public Instruction, was read.

Lucas said that he understood that the county attorney had rendered an opinion on the subject and asked that it be read.

Adams replied that he had taken upon himself to bring the matter to the notice of the county attorney and to ask him for an opinion.

County Attorney Douthitt's opinion was read. It ran as follows:

DOUTHITT'S OPINION.

Honolulu, Feb. 27, 1906.

Hon. E. R. Adams, Supervisors at Large, County of Oahu.

Dear Sir: In response to your request made on the 26th day of February, 1906, as to the powers of the Board of Supervisors with reference to making appropriations for the support of schools, payment of teachers, etc., I beg to say as follows:

I thoroughly appreciate the necessity for aiding the schools, for I am aware that the amount appropriated by the Territorial Legislature is not sufficient to maintain a proper standard in one of the most important branches of government, viz., the public schools. But, however, much as the present condition as to the public schools may be deplored, still, the Board of Supervisors can do only such things as are contained in the County Act, or, by reasonable and necessary implication, may be attributable to them.

Defining the extent of power, limitations and canons of construction with regard to municipal corporations, Mr. Dillon says, in his work on this subject, as follows: "It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation—not simply convenient, but indispensable. Any fair reasonable doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied. Of every municipal corporation, the charter or statute by which it is created is its organic act. Neither the corporation nor its officers can do any act, or make any contract, or incur any liability, not authorized thereby, or by some legislative act applicable thereto. All acts beyond the scope of the powers granted are void." Dillon on Municipal Corporations, Vol. 1, Sec. 89.

ONLY POWERS DELEGATED.

It is a well settled principle of construction of grants by a legislative body to municipal corporations that only such powers and rights can be exercised under them as are clearly comprehended within the words of the act or derived therefrom by necessary implication, regard being had to the objects of the grant. Any ambiguity or doubt arising out of the terms used by the legislature must be resolved in favor of the public. This doctrine has been sustained by the Supreme Court of the United States in the case of Minton vs. La Rue, 23 Howard, 435. In subsequent cases, the Supreme Court of the United States has said that a municipal corporation "can exercise no power which is not, in express terms or by fair implication, conferred upon it." Thompson vs. Lee Co., 3 Wall, 320; Thomas vs. Richmond, 12 Wall, 349.

So, therefore, to ascertain whether the Board of Supervisors of this County has the power to make appropriations for the maintenance of public schools, we must necessarily look to the provisions of the County Act, and ascertain therefrom whether this power is expressly given or whether it is given by necessary implication. Subdivision 5 of Section 9, Chapter 4 of the County Act reads as follows:

"No county shall in any manner give or loan its credit to or in aid of any person or corporation, and any indebtedness or liability incurred contrary to this provision shall be void." (Continued on Page 3.)

Alexander Says It Is a Question for the Financiers.

"The school and janitor question is simply a matter of finances," said Professor W. D. Alexander, when asked to give his opinion on the question of having the teachers and pupils of the schools do a share of the janitor work. "I have nothing to suggest in the matter. We must wait and see what the Supervisors have to say respecting the use of some of the county money to help the schools out of the straits in which they find themselves."

"If the Supervisors decide to come to the assistance of the Board of Public Instruction it will be the first move towards putting our schools under county government."

"We have a hard condition to contend with in the Hawaiian schools, differing very much from those on the mainland. In no place in the world are there to be found so many races receiving their education together as here, and this fact presents many problems to be solved. I think that we had better go slow in our schools until we know exactly where we are."

"I think that Professor Scott has shown very plainly that it will be found impossible to have janitor work in the High School at least, done by any of the pupils, and I imagine the objections he finds will be found by the principals of many of the other schools."

"As I have said, it is simply a question of finances, and the solution will have to come from some of the financiers."

ASK CONGRESS TO HELP SCHOOLS

Making his statement in Washington before the committee of Congress hearing the Hawaiians on the plan to refund 75 per cent. of the customs duties of Hawaii to the Territory, George W. Smith said:

It is further proposed to expend for schools and teachers' houses an additional amount of, approximately, \$790,000.

Mr. Lloyd of the Committee. What do you mean by teachers' houses?

Mr. G. W. Smith. In the country we have to provide a cottage for the teacher to live in. We have no villages or towns throughout the islands, and the schoolhouses are situated in different parts of the islands adjacent to plantations, and the scholars come for miles around, and there are no boarding places for them—no places where they can find a residence—and so we have to provide for the teachers.

Mr. Lloyd. Can not they find a place with some of the plantation people?

Mr. G. W. Smith. In some cases they can, but those instances are rare. Usually there will be a man and his wife together, and we have to provide a house for them.

In assuming a burden of this nature it has been the aim of the executive and the officials of the Territory to educate and prepare for citizenship the large and growing number of children, particularly those of other than Caucasian parentage. In this respect Hawaii is bearing a burden imposed on no other Territory.

The funds now used for the purposes named are by no means sufficient to meet the need, and more, larger, and better equipped schoolhouses are required.

The present school population enrolled in the public and private schools of the Territory is 20,406, being a percentage of 91.6 of the total population within the school age.

The rapid increase of the school population, amounting to over 8000 in the past ten years, with the prospective immigration to Hawaii in the near future of a people eligible to citizenship from the Portuguese possessions, all of whom have large families, render it imperative that ample and proper provision be made for the care and education of the children of the diverse races inhabiting the Territory, and, were this the only point to be considered, Hawaii feels that it is one of (Continued on Page 4.)

TRUTHS SPOKEN IN JEST BY

WAGS AT THE HIGH SCHOOL

Apologues of the article in yesterday's Advertiser, on the pupil janitor service, some High School wags placed the following notices on the board:

"All pupils will please bring brooms and mops tomorrow. The Board of Education will furnish the water." Toward the latter part of the afternoon another was added:

"Each pupil enjoying the benefits of the Honolulu High School is requested to bring five cents towards buying a box of soap with which to wash the school."

NEXT IS HOTEL CONVENTION HERE

Promotion Committee Is Corresponding With Coast Landlords.

One of the principal matters discussed at the meeting of the Promotion Committee yesterday was the possibility of a Pacific Coast Hotelmen's Convention to be held in Honolulu this summer. The idea is Secretary Wood's and he recently sent a number of letters bearing on the subject to leading hotel men, promotion committees and steamship headquarters on the Coast.

It was like casting bread upon the waters, and Mr. Wood has been gratified to learn that the matter has been taken up seriously. A letter from A. D. G. Kerrell, general passenger agent at San Francisco for the Pacific Mail, O. & O. and San Francisco and Portland steamship companies, indicates that he is in line with the proposition. He says:

CONVENTION — PACIFIC COAST HOTEL MEN.

San Francisco, Cal. Feb. 20, 1906.
Mr. H. P. Wood, Secretary Hawaii Promotion Committee, Honolulu, T. H.

Dear Sir: This will acknowledge receipt of yours of the 6th inst. asking whether we can not in some manner arrange for a Convention of Pacific Coast Hotel Men at Honolulu this summer. I should think that this would be a very good thing, and I would suggest that you take it up with Col. J. C. Kirkpatrick, manager of the Palace Hotel, who is President of the California Resort League, an association of Pacific Coast Hotel Men.

In this connection I would state that there is to be a meeting of the National Hotel Men's Association at Portland, in the latter part of May or the latter part of June, for which reduced rates have been made by the rail lines. I don't know what attendance will be drawn, but the meeting might offer a good opportunity to bring forward the proposed Convention in Honolulu. I trust that from the foregoing information you will be able to derive some assistance which will lead to the desired end.

Respectfully yours,
A. D. G. KERRELL.

ST. FRANCIS BOOSTS HAWAII.

Another letter from the St. Francis Hotel on the same subject shows that that hotel does what it can to create travel to the islands. The letter was as follows:

San Francisco, Cal., Feb. 17, 1906.
Mr. H. P. Wood, Secretary Hawaii Promotion Committee, Honolulu, T. H.

Dear Sir: We beg to acknowledge receipt of your favor of February 7 addressed to your Mr. Woods. Relative to the feasibility of holding a convention of Hotel Men at Honolulu during the coming summer, it is a matter upon which it is not easy at this time to venture an opinion. It strikes us that now that you have taken the initiative, and in due course will soon be in possession of a consensus of opinion, which will at least disclose whether or not there is a likelihood of any concerted action from this end, you will be in a position to decide at once upon its practicability.

Through our own Information Bureau, which is unique and original, we never lose an opportunity to enlarge upon the advantages of the Hawaiian trip, display conspicuously every bit of literature we get and feel that we second your efforts in an interested way.

We agree with you that this traffic should be stimulated and that it should have the moral support of Coast Hotels; and we wish to give you assurance of our hearty cooperation in any practical plan which may be evolved from the inquiries you are making.

We shall be glad to know the result of your canvass and wish every success to the enterprise.

Very truly yours,
HOTEL ST. FRANCIS,
HARRY ARNOLD,
Director Promotion Bureau.

"The answers are all so encouraging," commented Secretary Wood, "that I will push the thing along. I know we will have the backing of the Promotion Committee of California."

TO DINE OREGON GIRLS.

Secretary Wood called attention to the visit of the Oregon girls and their chaperon, Mrs. Weathered. He said that the young ladies were certainly going a lot to bring Hawaii into the public eye on the mainland; he trusted that everything that could be done here to make their stay delightful, would be done. He had found them a (Continued on Page 2.)

BALFOUR IS TRIUMPHANT

Conservative Leader Has Been Elected to Parliament by a Very Handsome Majority.

(Associated Press Cablegrams.)

LONDON, February 28.—Balfour has been elected to Parliament by 11,000 majority.

When it became known that the great Conservative leader had been beaten by his own constituency, a London member of his party who had been elected resigned that Balfour might have a seat. The Liberals at first announced that they would not contest the election, but later decided to make a fight. Balfour's triumph, therefore, is complete.

SAMUEL PIERPONT LANGLEY OF SMITHSONIAN IS DEAD

WASHINGTON, February 28.—Samuel Pierpont Langley, Secretary of the Smithsonian Institution, is dead.



PROFESSOR LANGLEY.

This celebrated astronomer and physicist, who has been Secretary of the Smithsonian since 1887, was born at Roxbury, Mass., in 1834. He attended the Boston High School, and held degrees from both Oxford and Cambridge, in England, and from Yale, Harvard, Princeton, the University of Wisconsin and the University of Michigan. His services to science have been long and distinguished. He founded the system of railway time service from observatories, which has since come into general use, and he was the discoverer of an entirely unexpected extension of the invisible solar spectrum. Of late years, under the patronage of the Federal government, he has devoted much time and attention to the perfection of an aeroplane flying machine.

CHURCH RIOTERS STILL DISTURB RURAL FRANCE

LE PUY, France, February 28.—In a conflict between a mob and a party of gendarmes making an inventory of the local church property, fifteen persons were wounded.

Clearly, in carrying out the policy of the separation of church and state, France is confronting the most serious condition that the republic has been called to meet. The encyclical of Pius X. directed against the Paris government upon this matter continues to bear fruit.

RACE WAR IN ILLINOIS.

SPRINGFIELD, Illinois, February 28.—The militia has been called out to quell a mob which is attacking the negro quarter on account of the shooting of a white man there.

WATERSPOUT DESTROYS A VILLAGE.

NAHANARO, Madagascar, February 28.—A waterspout has destroyed an entire village near here, and many persons have been drowned.

HISTORIC CHURCH DESTROYED.

BARCELONA, February 28.—The historic church of San Pablo has been destroyed by an incendiary.

KILLED IN A MINE EXPLOSION.

PIPER, Alabama, February 28.—Six persons have been killed and twelve injured in a mine explosion.

THE YERKES-MIZNERS ARE NOW RECONCILED

NEW YORK, February 28.—The Mizners have been reconciled.

When young Wilson Mizner married the rich and somewhat elderly widow of Millionaire Yerkes there was a ripple of talk on the mainland that was only exceeded by the ripple that came a few days later with the announcement that the couple had quarreled and separated. The story of the separation is thus told: The Mizners' romance tonight has been shattered. Scarcely had the world recovered from the shock of the separation of the Count and Countess Castellane when news comes that another young son of fortune, Wilson Mizner, has been separated from his wife and her millions. In a little more than two weeks the young California giant and (Continued on Page 4.)